

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

OLEIN RECOVERY CORPORATION

Plaintiff

v.

SEHA MUHENDISLIK MUSAVIRLIK
TICARET VE MAKINA SANAYI A.S.; PAL
DENIZ NAKLIYAT VE DIS TICARET A.S.
ICERENKOY MAHALLESİ, KAYISDAGI; CMA
CGM PUERTO RICO, LLC; ET ALS.

Defendants

CIVIL NO. 2024-

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

The appearing Defendant, C.H. Robinson International Puerto Rico Inc. (hereinafter “C.H. Robinson”) through its undersigned attorneys, respectfully pleads and prays as follows:

I. Introduction

On November 2, 2023, Plaintiff, Olein Recovery Corporation (hereinafter “Olein” or “Plaintiff”), filed a civil action before the Commonwealth of Puerto Rico’s Court of First Instance, San Juan Superior Court, under Civil No. SJ2023CV10354. The Codefendants are C.H. Robinson International Puerto Rico, Inc.; CMA CGM Puerto Rico, LLC; Seha Muhendislik Musavirlik Ticaret ve Makina A.S. and Pal Deniz Nakliyat ve Dis Ticaret A.S. Icerenkoy Mahallesi, Kayisdagi.

The appearing Codefendant C.H. Robinson International Puerto Rico, Inc., was served with process on January 18, 2024. The Complaint and the Service of Process upon C.H. Robinson are attached herein as **Exhibits 1 and 2**, respectively.

Codefendant CMA CGM Puerto Rico, LLC was served with process on January 16, 2024. Codefendant CMA CGM Puerto Rico, LLC have consented to removal. The Service of Process and the Motion Consenting to removal are attached as **Exhibits 3 and 4**.

Codefendants Seha Muhendislik Musavirlik Ticaret ve Makina A.S.; Pal Deniz Nakliyat ve Dis Ticaret A.S. Icerenkoy Mahallesi, Kayisdagi have not been with process.

Plaintiff's Complaint is based on a marine cargo claim related to the damages of certain goods shipped under ocean Bills of Lading. The afore-mentioned suit is thus a civil action over which this Honorable Court has original jurisdiction, removable to this District Court.

II. Grounds for Removal

Removal of this case is proper under 28 U.S.C. §§1331, 1333 and 1337, because Plaintiff's case presents a federal question.

A. Federal Question

28 U.S.C. § 1331 confers original jurisdiction to this Court of "all civil actions arising under the Constitution, laws or treaties of the United States." As stated in its Complaint, Plaintiff seeks to recover damages for the loss of goods allegedly caused by Codefendants. Claims arising from the transportation of these goods are governed by the Carriage of Goods by Sea Act ("COGSA"¹), pursuant to the terms and conditions of the Bills of Lading². Plaintiff's claims against Codefendants consequently arise under the laws of the United States, which brings them within the scope of this Court's federal question

¹ COGSA, formerly published under 46 U.S.C. §1300, et seq. and recodified in the Historical and Statutory Notes of 46 U.S.C. §30701.

² COGSA applies to Bills of Lading in the transportation of cargo by sea between foreign ports and ports of the United States. Contracts of carriage in the domestic trade, such as between ports in the United States and Puerto Rico, under Bills of Lading are governed by the Harter Act. 46 U.S.C. §30701, et seq. "**An express statement in such a domestic bill [of lading] stating that COGSA shall apply is given effect, however, and COGSA is often applicable to such contracts of carriage.**" Thomas J. Schoenbaum, Admiralty and Maritime Law, §10-15, Vol. 1, 5th Ed. (2011) (emphasis added).

jurisdiction. The case is therefore removable according to 28 U.S.C. § 1441(a).

It should be noted that although Plaintiff's makes no mention of COGSA in the Complaint, when facts are alleged that brings into play the statute, a specific reference to it is unnecessary and immaterial. *Commonwealth of Puerto Rico v. Sea-Land Services, Inc.*, 349 F.Supp. 964 (D.P.R. 1970).

B. Commerce Jurisdiction

This Honorable Court also has jurisdiction under 28 USC §1337(a), which allows for original jurisdiction “of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade....”. As COGSA applies to the ocean transportation at issue, this Court also has commerce jurisdiction.

C. Admiralty Jurisdiction

Additionally, jurisdiction is proper pursuant to this Court's admiralty jurisdiction under 28 U.S.C. § 1333 as there is no controversy whatsoever that Plaintiff's suit relates to the ocean carriage of goods. Thus, Plaintiff's suit could have originally been brought in federal court pursuant to this Court's admiralty jurisdiction. *See*, 28 U.S.C. § 1333(1).

III. Compliance with 28 U.S.C. § 1446

In accordance with 28 U.S.C. § 1446, C.H. Robinson attaches a copy of the following to this Notice of Removal:

- (i) Complaint; and
- (ii) Service of Process of Summons.

These documents (**Exhibits 1 and 2**) constitute all processes, pleadings, and orders served on the appearing party to date in Civil No. SJ2023CV10354.

Furthermore, removal of the action is timely under 28 U.S.C. § 1446, as this Notice is being filed within 30 days after receipt of a copy of the Plaintiff's Complaint. As also required by 28

U.S.C. § 1446(d), C.H. Robinson will, upon the filing of this Notice of Removal, file a copy of the same with the Commonwealth of Puerto Rico's Court of First Instance, San Juan Superior Court, and will further serve a copy upon Plaintiff.

IV. Non-Waiver of Defenses

By removing this action from the Commonwealth of Puerto Rico's Court of First Instance, San Juan Superior Court, C.H. Robinson does not waive any defenses available to it. Furthermore, by removing this action from the Commonwealth of Puerto Rico's Court of First Instance, San Juan Superior Court, C.H. Robinson does not admit any of the allegations contained in Plaintiff's Complaint.

WHEREFORE, the appearing party respectfully prays that this Honorable Court takes notice of the removal of Civil No. SJ2023CV10354 and includes the same in its docket, with the appropriate assignment of a case docket number.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 15th day of February 2024.

I CERTIFY: That a true and exact copy of the foregoing Notice and attachments has been sent by e-mail to the attorney of record of the Plaintiff.

s/Jorge F. Blasini
JORGE F. BLASINI
USDC-PR NO. 213001
EMAIL: jblasini@jgl.com

s/Mayra González Reyes
MAYRA GONZÁLEZ REYES
USDC-PR NO. 216203
EMAIL: mgonzalez@jgl.com

JGL ATTORNEYS AT LAW, LLC

P. O. Box 366104

San Juan, P. R. 00936-6104

Tel: (787) 767-1030

Fax: (787) 751-4068